

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

BASHEEM SMALLS,	:	CIVIL NO. 1:17-CV-2237
	:	
Plaintiff	:	(Chief Judge Conner)
	:	
v.	:	
	:	
C.O. SASSAMAN, <i>et al.</i>,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 4th day of September, 2019, upon consideration defendants' partial motion (Doc. 20) to dismiss and for summary judgment, and in accordance with the accompanying memorandum, it is hereby ORDERED that:

1. The motion (Doc. 20) to dismiss is GRANTED as follows:
 - a. The claims against defendants Brown, Weaver, Reed, Yost, Lyons, and Spaulding are DISMISSED for lack of personal involvement. The claim against Martin for retaliation is likewise dismissed. The Clerk of Court is directed to TERMINATE defendants Brown, Weaver, Reed, Yost, Lyons, Martin and Spaulding as parties to this action.
 - b. The First Amendment retaliation claim is DISMISSED.
2. The motion (Doc. 20) for summary judgment is granted in part and denied in part as follows:
 - a. The motion is DENIED based on failure to exhaust the claim that defendant Sassaman touched Smalls on his genitalia.
 - b. The motion is GRANTED with respect to the excessive force claim against defendant Sassaman. Entry of judgment is deferred pending further order of court.

3. Defendant Sassaman shall FILE an answer or appropriate pretrial motion to the remaining claim of sexual assault as set forth in the complaint in accordance with the Federal Rules of Civil Procedure.¹
4. Any appeal from this order is DEEMED frivolous and not in good faith. See 28 U.S.C. § 1915(a)(3).

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania

¹ Defendants did not seek summary judgment on Smalls' sexual assault claim. See Doc. 23 at 4.